

JUL 05 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TOP RANK, INC.,

Plaintiff - Appellant,

V.

LAMON TAJUAN BREWSTER,

Defendant - Appellee.

No. 04-15556

D.C. No. CV-03-00650-KJD/PAL

MEMORANDUM^{*}

TOP RANK, INC.,

Plaintiff - Appellant,

V.

LAMON TAJUAN BREWSTER,

Defendant - Appellee.

No. 05-15549

D.C. No. CV-03-00650-KJD/PAL

Appeal from the United States District Court
for the District of Nevada
Kent J. Dawson, District Judge, Presiding

Argued and Submitted June 14, 2006
San Francisco, California

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Before: SCHROEDER, Chief Judge, GRABER, Circuit Judge, and DUFFY**,
District Judge

Appellant Top Rank, Inc. appeals the district court's order and judgment confirming an arbitration award in favor of Appellee Lamon Tajuan Brewster.

Appellant's position is that the arbitrator exceeded the scope of her authority under the parties' agreement when she considered the entire contract to determine the amount of damages owed to Brewster. In addition to awarding damages, the arbitrator also awarded costs and attorney's fees to Brewster.

Appellant's argument boils down to the contention that the arbitrator should have considered only the portion of the contract that supported its theory of damages. The role of the arbitrator was, however, to resolve the dispute of the parties, and this required considering the entire contract. The parties clearly agreed to the arbitration of "any and all disputes arising with respect to this agreement." They further agreed that the arbitrator's award should be "final and binding on each of the parties." Such an agreement must be enforced according to its terms.

United States Steelworkers v. Enter. Wheel & Car Corp., 363 U.S. 593, 597

(1960); Edward Hines Lumber Co. of Or. v. Lumber & Sawmill Workers Local

** The Honorable Kevin Thomas Duffy, Senior United States District Judge for Southern New York, sitting by designation.

No. 2588, 764 F.2d 631, 635 (9th Cir. 1985). The attorney's fees were not excessive.

AFFIRMED.